

REMARKS

This application has been carefully reviewed in light of the Office Action dated March 31, 2005. Claims 1-17 have been cancelled without prejudice and new claims 18-33 are now pending in this application. Claims 18 and 33 are independent. No new matter has been added. Favorable reconsideration is requested.

In the Office Action, Claims 1-17 were rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 5,905,974 (Fraser et al.) in view of U.S. Patent No. 5,987,432 (Zusman et al.). As shown above, Applicant has cancelled the prior claims without prejudice and has presented new claims 18-33. The new claims have been carefully drafted in terms which more clearly define the present invention. Moreover, the new claims have been carefully drafted to be patentably distinguished from the prior art cited in the accompanying Information Disclosure Statement. This prior art was cited in Applicant's copending, commonly-assigned U.S. Patent Appln. No. 09/708,146. Of particular relevance therein is Madoff et al. (U.S. Patent Appln. Pub. US 2001/0044767, hereinafter "Madoff").

New independent claims 18 and 33 herein each recite the automatic application of a price improvement rule to a trade. The present Office Action cites to Fraser et al. as allegedly teaching the automatic application of a price improvement rule to a trade, citing to col. 7, lines 46-57 (see page 3 of the Office Action). However, these lines read in full as follows:

"Now turning to FIG. 2, the overall information paths of the present invention are presented in block diagram form. This market information is derived from the auction process and is a highly valuable source of data to related markets (futures and options). Beginning with block 100, market data is collected from the plurality of on-line terminals operated by brokers within the relevant bond market sector. A continual exchange of information flows between the brokers, depicted in block 100, and the system proprietor, block 110, i.e., as bids, offers and trades are transacted in real time. This information is collected by the system proprietor and entered into the data processor database."

It is respectfully submitted that neither these, not any other lines in Fraser et al., alone or in combination with Zuzman et al., teach or suggest the automatic application of a price improvement rule to a trade.

However, Madoff does disclose the concept of price improvement or “pi,” for instance in paragraph 29, where the pi relative to the NBBO is described as improving the execution price relative to the spread.

In the example of Fig. 2 (paragraphs 30-34) of Madoff, a broker/dealer system 12a enters an order 30 to the automated auction system 20. As shown in the examples, Madoff’s automated auction system 20 is the structure that makes matches between orders and responses, and is a *public* system, accessible by public participant systems 12c on the order entry side (§22, line 4) and Internet based (public) participant systems 14c on the order response side 14 (§23, lines 4-5).

After matching, Madoff’s automated auction system 20 forwards the executions to an exchange “for validation, trade reporting and clearance” (§34, lines 13-15, §43, lines 22-24, §44, lines 18-20). Accordingly, the “exchange” is not the structure that makes the match (executes the trade). Rather, this is done by the automated auction system 20, which is operatively positioned as if it were a public stock exchange, receiving orders and responses from the public and performing the matching process therebetween, i.e., executing the trades.

Such a *public matching/execution* system does not form part of Applicant’s claimed systems, as the new claims make clear (see below). Instead, Applicant’s claimed systems are operatively positioned corresponding to the privately operated systems 12a-12g of Madoff.

Returning to the example of Fig. 2, the order 30 entered by broker/dealer system 12a is to sell shares of XYZ stock “at the market” (§30, line 5). The NBBO for XYZ has a price 125-125 1/16 (§30, lines 8-10). Then a broker/dealer C enters a buy *response* 36 at NBBO +0.03, where

0.03 is the price improvement (§32, lines 4-7). In this example, it is the response, not the order, that has a price improvement.

In contrast, the present invention is directed to the application of a price improvement to a trade that occurs automatically by the system proprietor before the trade is submitted to the remote public exchange. In paragraph 43 of Madoff, (the example of Fig. 5, §§ 42-43), the order 40' is at NBBO with a minimum price improvement of "0.02" (§42, lines 2-7).

Paragraph 44 of Maddoff describes a different type of example with respect to Fig. 6. Here, broker/dealer A enters an order 50 (to automated auction system 20) to sell shares of YYY "at the market," i.e., NBBO 52 of 92-92 5/16 (§44, lines 2-5). Broker/dealer D sends an order 58' to buy shares of YYY "at the market" (§44, lines 5-7). The automated auction system 20 executes the trade between A and D (§44, lines 11-13), and the order execution price is at the mid-point of the spread, i.e. 92 5/32 (§44, lines 14-16).

In this example, it is the automated auction system 20 that sets the execution price for a buy *at market* and a sell *at market* at the mid-point of the spread. Neither the buy nor the order have any price improvement. Accordingly, the example of paragraph 44 has nothing to do with Applicant's claimed system, which automatically applies a price improvement rule to an order before the order is submitted for execution, i.e., before matching.

New independent claim 18 has been drafted to clarify the differences from the prior art. Thus, claim 18 recites a computer-implemented system for automated trading of U.S. Treasury, Liquid Agency, and Zero Coupon Strip financial instruments. The system comprises an updatable database for receiving real time price and quantity information pertaining to each of a plurality of financial instruments from a market data feed, wherein the plurality of financial instruments constitutes an offering inventory and

each such financial instrument is one of a U.S. Treasury, Liquid Agency, and Zero Coupon Strip financial instrument, and a computer implemented system proprietor for automatically (1) identifying a trade of a selected one of the financial instruments in the offering inventory to be executed, (2) determining if the trade to be executed is an offsetting trade, wherein an offsetting trade is at least one of a plurality of trades of a same financial instrument, which plurality of trades are executed within a predefined period of time of each other, and, (3) if the trade to be executed is determined to be an offsetting trade, applying a price improvement rule to the offsetting trade that improves a price of the offsetting trade for at least one party to the offsetting trade.

As further recited in claim 18, applying the at least one price improvement rule comprises the system proprietor capturing a bid price and an offer price for the selected financial instrument from the offering inventory, and computing an improved price for trading the selected financial instrument that is an improvement to the first order price, which improved price is between the bid price and the offer price.

Finally, claim 18 recites system proprietor forwarding the offsetting trade to a remote public exchange for execution at the improved price, and updating the database and the offering inventory to reflect transactions forwarded by the system.

Thus, in claim 18, (1) it is the system, not the remote public exchange, that applies the price improvement rule (2) to the trade (3) before the trade is forwarded to the remote public exchange for execution. Applicant respectfully submits that Madoff fails to teach or suggest this combination of features, whether in paragraphs 43, 44 or anywhere else therein.

Applicant further submits that none of the other prior art of record remedies this deficiency of Madoff as a reference against new claim 18.

New independent claim 33 is a method claim that corresponds to independent system claim 18, and is believed to be patentably distinct from the prior art of record for the same reasons.

The remaining claims depend from claim 18 and partake of the novelty thereof.

In light of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentably distinct over the prior art of record, that the application is in proper form for allowance of all claims, and earnestly solicits a notice to that effect.

If the Examiner has any questions, the Examiner is invited to call Applicant's representative directly at (212) 969-3314.

Respectfully submitted,

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